

## **MINUTES**

### **MONTANA SENATE 62nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** Chair Terry Murphy, on February 10, 2011 at 8:00 A.M., in Room 303 Capitol

#### **ROLL CALL**

**Members Present:**

Sen. Terry Murphy, Chair (R)  
Sen. Jim Shockley, Vice Chair (R)  
Sen. Anders Blewett (D)  
Sen. Jeff Essmann (R)  
Sen. Greg Hinkle (R)  
Sen. Cliff Larsen (D)  
Sen. Lynda Moss (D)  
Sen. Chas Vincent (R)

**Members Excused:** Sen. Shannon Augare (D)  
Sen. Rowlie Hutton (R)  
Sen. Larry Jent (D)  
Sen. Jim Peterson (R)

**Members Absent:** None

**Staff Present:** Valencia Lane, Legislative Branch  
Pam Schindler, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted: SB 17, 1/24/2011; SB 18, 1/24/2011; SB 268, 1/24/2011

Executive Action: SB 185-Do Pass, SB 167-Tabled

(Without objection, Chairman Murphy ruled to allow Sen. Shockley to present both SB 17 and SB18 together due to their similarities)

**HEARING ON SB 17 AND HEARING ON SB 18**

**Opening Statement by Sponsor:**

00:01:20 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 17, Require admin of detention facility by sheriff, chief of police or dept of corr.

Sen. Jim Shockley (R), SD 45, opened the hearing on SB 18, Provide sheriff sole authority to hire/fire detention/law enforcement officers

[EXHIBIT\(jus33a01\)](#)

[EXHIBIT\(jus33a02\)](#)

[EXHIBIT\(jus33a03\)](#)

[EXHIBIT\(jus33a04\)](#)

[EXHIBIT\(jus33a05\)](#)

[EXHIBIT\(jus33a06\)](#)

[EXHIBIT\(jus33a07\)](#)

[EXHIBIT\(jus33a08\)](#)

[EXHIBIT\(jus33a09\)](#) (DVD of prisoner being tasered)

**Proponents' Testimony:**

00:22:11 David Castle, former Sheriff, Cascade County, Great Falls, Montana

00:31:50 Chris Hoffman, Sheriff, Ravalli County

**Opponents' Testimony:**

00:39:11 Joe Briggs, County Commissioner, Cascade County, Great Falls, Montana

[EXHIBIT\(jus33a10\)](#)

[EXHIBIT\(jus33a11\)](#)

00:48:25 Laura Obert, County Commissioner, Broadwater County, Townsend, Montana,  
Justice and Public Safety Committee/Montana Association of Counties (MACo)

[EXHIBIT\(jus33a12\)](#)

[EXHIBIT\(jus33a13\)](#)

00:51:30 J.D. Lynch, Teamsters Local Union #2

00:55:01 Greg Chilcote, County Commissioner, Ravalli County, Hamilton, Montana,  
Chair, Justice and Public Safety Committee, MACo.

[EXHIBIT\(jus33a14\)](#)

[EXHIBIT\(jus33a15\)](#)

[EXHIBIT\(jus33a16\)](#)

[EXHIBIT\(jus33a17\)](#)

[EXHIBIT\(jus33a18\)](#)

[EXHIBIT\(jus33a19\)](#)

[EXHIBIT\(jus33a20\)](#)

[EXHIBIT\(jus33a21\)](#)

00:58:53 Doug Buxbaum, County Commissioner, Dawson County, Glendive, Montana

01:00:20 Mike Sehestedt, Chief Counsel, MACo

[EXHIBIT\(jus33a22\)](#)

[EXHIBIT\(jus33a23\)](#)

[EXHIBIT\(jus33a24\)](#)

01:07:59 Linda Stoll, County of Missoula, Missoula, Montana

01:10:39 Gordon Morris, Lewis and Clark County Commissioners, Helena, Montana

[EXHIBIT\(jus33a25\)](#)

01:12:58 Loren Young, County Commissioner, Richland County, Sidney, Montana

**Informational Testimony:**

None

**Questions from Committee Members and Responses:**

01:13:33 Sen. Blewett

01:14:08 Mr. Briggs

01:14:45 Keith Stapley, Claims Administrator, MACo

01:15:56 Sen. Blewett

01:16:07 Mr. Briggs

01:21:38 Sen. Hinkle

01:23:01 Mr. Briggs

01:29:34 Sen. Hinkle

01:29:40 Sheriff Hoffman

01:31:20 Sen. Larsen

01:32:11 Mr. Castle

01:36:11 Sen. Essmann

01:38:34 Mr. Briggs

01:40:45 Sen. Larson

01:41:29 Mr. Sehestedt

01:43:12 Sen. Murphy

01:43:21 Ms. Obert

01:43:51 Sen. Blewett

01:45:37 Mr. Briggs

01:47:05 Sen. Moss

01:47:47 Sheriff Hoffman

01:50:26 Sen. Moss

01:51:26 Mr. Morris

01:52:36 Ms. Obert (clarification)

**Closing by Sponsor:**

01:53:04 Sen. Shockley

[EXHIBIT\(jus33a26\)](#)

[EXHIBIT\(jus33a27\)](#)

**HEARING ON SB 268**

**Opening Statement by Sponsor:**

02:05:52 Sen. Joe Balyeat (R), SD 34, opened the hearing on SB 268, Referendum to require election of supreme court justices from districts.

[\*\*EXHIBIT\(jus33a28\)\*\*](#)

**Proponents' Testimony:**

02:23:47 Chuck Denowh, United Property Owners of Montana

[\*\*EXHIBIT\(jus33a29\)\*\*](#)

**Opponents' Testimony:**

02:26:23 Bruce Spencer, State Bar of Montana

02:28:01 Kate McGrath Ellis, Attorney, Montana Defense Trial Lawyers

**Informational Testimony:**

02:31:02 Al Smith, Montana Trial Lawyers (MTLA)

**Questions from Committee Members and Responses:**

02:33:30 Sen. Blewett  
02:34:00 Sen. Balyeat  
02:36:31 Sen. Essmann  
02:39:01 Mr. Spencer  
02:41:27 Sen. Blewett  
02:42:40 Sen. Balyeat  
02:45:42 Sen. Larsen  
02:46:12 Sen. Balyeat  
02:48:48 Sen. Moss  
02:49:44 Sen. Balyeat  
02:50:17 Sen. Murphy  
02:50:30 Sen. Balyeat  
02:51:30 Sen. Blewett  
02:52:08 Sen. Balyeat

**Closing by Sponsor:**

02:56:54 Sen. Balyeat

[\*\*EXHIBIT\(jus33a30\)\*\*](#)

03:05:41 Sen. Hinkle

**EXECUTIVE ACTION ON SB 185**

03:06:19 **Motion:** Sen. Blewett moved that **SB 185 DO PASS.**

**Discussion:**

03:06:27 Sen. Moss  
03:07:19 Chairman Murphy  
03:07:37 Sen. Blewett  
03:09:04 Sen. Larsen

(Please Note: the computer system locked up, therefore the times may be inaccurate to a small degree)

03:11:07 Sen. Hinkle

03:13:53 **Vote:** Motion carried 7-5 by roll call vote with Sen. Essmann, Sen. Hutton, Sen. Murphy, Sen. Peterson and Sen. Vincent voting no. Sen. Augare, Sen. Hutton, Sen. Jent, Sen. Peterson, Sen. Shockley and Sen. Vincent voted by proxy.

**EXECUTIVE ACTION ON SB 167**

03:15:35 Valencia Lane, Legislative Services Division (LSD)  
03:15:50 Jacqueline Lenmark, self  
03:16:11 Ms. Lane  
03:17:10 Sen. Blewett

03:17:37 **Motion:** Sen. Blewett moved that **SB 167 DO PASS.**

**Discussion:**

03:17:57 Sen. Blewett  
03:20:26 Sen. Larson  
03:21:45 Sen. Hinkle  
03:22:52 Sen. Essmann  
03:24:30 Sen. Shockley  
03:26:57 Sen. Moss  
03:28:35 Sen. Murphy

03:28:55 **Vote:** Motion failed 5-7 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Jent, Sen. Larsen and Sen. Moss voting aye. Sen. Augare, Sen. Hutton, Sen. Jent, Sen. Shockley and Sen. Vincent voted by proxy.

03:40:11 **Motion:** Sen. Hinkle moved to **REVERSE THE VOTE AND TABLE SB 167.** Sen. Moss and Sen. Blewett objected to this motion.

03:40:21      **Substitute Motion/Vote:** Sen. Hinkle made a substitute motion that **SB 167 BE TABLED**. Substitute Motion carried 7-5 by roll call vote with Sen. Augare, Sen. Blewett, Sen. Jent, Sen. Larsen and Sen. Moss voting no. Sen. Augare, Sen. Hutton, Sen. Jent, Sen. Shockley and Sen. Vincent voted by proxy.

**EXHIBIT(jus33a31)**

Letter from Annie Bukacek, MD regarding SB 167 heard 2/9/11

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**ADJOURNMENT**

Adjournment: 12:05 P.M.

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Pam Schindler, Secretary

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Additional Documents:

**EXHIBIT**([jus33aad.pdf](#))